

AMENDED IN SENATE JUNE 10, 2008

AMENDED IN SENATE MARCH 11, 2008

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY MARCH 22, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 131

Introduced by Assembly Member Beall

January 12, 2007

~~An act to amend Sections 8250 and 8263 of the Education Code, relating to state preschool programs. An act to add and repeal Section 44265.2 of the Education Code, relating to teacher credentialing.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 131, as amended, Beall. ~~State preschool programs: children with exceptional needs. Teacher credentialing: specialist credential: pupils with autism.~~

Existing law requires the Commission on Teacher Credentialing, by December 1, 2007, to report to the Legislature and the Governor on the existing process and requirements for obtaining a specialist credential in special education and recommend modifications to enhance and expedite those procedures.

This bill would authorize, until January 1, 2012, a local educational agency or school to employ and assign an individual to provide instruction to pupils who are 3 and 4 years of age and who are diagnosed as autistic, as defined, if the individual holds a valid level 1 or clear education specialist credential, is authorized to provide instruction to pupils with autism, and meets specified competence

criteria, as determined by the local educational agency or school. The local educational agency or school would be required to maintain on file in its office verification that the individual has met the competence criteria.

~~(1) Existing law requires the Superintendent of Public Instruction to ensure that all eligible children with exceptional needs are give equal access to child care and development programs.~~

~~This bill would require that no more than 20% of the children in a state preschool class be children with exceptional needs who receive education and related services pursuant to an individualized education program.~~

~~(2) Existing law requires a family to be a current aid recipient, income eligible, homeless, or be a family whose children are recipients of protective services, or whose children have been identified as being abused, neglected, or exploited, or at risk of being abused, neglected, or exploited, and to meet other specified criteria, in order to be eligible for federal and state subsidized child development services.~~

~~This bill, in addition, would allow an otherwise eligible family that is seeking to enroll a child with exceptional needs in a state preschool program to be eligible for subsidized child development services.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44265.2 is added to the Education Code,
2 to read:
3 44265.2. (a) Notwithstanding any other law, a local
4 educational agency or school may employ and assign an individual
5 to provide instruction to pupils who are three and four years of
6 age and who are diagnosed as autistic, as defined by Section
7 300.8(c)(1) of Title 34 of the Code of Federal Regulations, if the
8 individual holds a valid level 1 or clear education specialist
9 credential, is authorized to provide instruction to pupils with
10 autism, and meets the competence criteria set forth in subdivision
11 (b).
12 (b) (1) The local educational agency or school shall determine
13 that an individual described in subdivision (a) has satisfied either
14 of the following competence criteria allowing the individual to

1 *provide instruction to pupils who are ages three and four years of*
2 *age with autism:*

3 *(A) He or she has provided full-time instruction for at least one*
4 *year prior to September 1, 2007, in a special education program*
5 *that serves pupils who are three and four years of age with autism*
6 *pursuant to their individualized education programs and received*
7 *from the local educational agency or school a favorable evaluation*
8 *or recommendation to teach pupils with autism.*

9 *(B) He or she has completed at least three semester units of*
10 *coursework in the subject of special education, early childhood*
11 *education at a regionally accredited institution of higher education.*

12 *(2) The local educational agency or school shall maintain*
13 *verification of experience or coursework on file in its office.*

14 *(c) This section shall remain in effect only until January 1, 2012,*
15 *and as of that date is repealed, unless a later enacted statute, that*
16 *is enacted before January 1, 2012, deletes or extends that date.*

17 **SECTION 1.** ~~Section 8250 of the Education Code is amended~~
18 ~~to read:~~

19 ~~8250. (a) The Superintendent shall ensure that eligible children~~
20 ~~with exceptional needs are given equal access to all child care and~~
21 ~~development programs. Available federal and state funds for~~
22 ~~children with exceptional needs above the standard reimbursement~~
23 ~~amount shall be used to assist agencies in developing and~~
24 ~~supporting appropriate programs for these children.~~

25 ~~(b) To provide children with exceptional needs with additional~~
26 ~~access to child care and development programs, the Superintendent~~
27 ~~shall establish alternate appropriate placements, such as~~
28 ~~self-contained programs and innovative programs using the least~~
29 ~~restrictive environment. These programs shall be started as~~
30 ~~expansion funds become available and shall be expanded~~
31 ~~throughout the implementation of the plan. The Superintendent~~
32 ~~shall utilize existing program models and input from program~~
33 ~~specialists to develop new program criteria and guidelines for~~
34 ~~programs serving children with exceptional needs. These programs~~
35 ~~may serve children with exceptional needs up to 21 years of age.~~

36 ~~(c) Any child with exceptional needs served in child care and~~
37 ~~development programs shall be afforded all rights and protections~~
38 ~~guaranteed in state and federal laws and regulations for individuals~~
39 ~~with exceptional needs.~~

~~(d) No more than 20 percent of the children in a state preschool class shall be children with exceptional needs who receive their education and related services pursuant to an individualized education program.~~

~~(e) Notwithstanding any other provision of this chapter, the Superintendent may develop unique reimbursement rates for, and make reimbursements to, child care and development programs that received state funding for the 1980-81 fiscal year and serve severely disabled children, as defined in subdivision (y) of Section 8208, when all of the following conditions exist:~~

~~(1) Eligibility for enrollment of a severely disabled child in the program is the sole basis of the child's need for service.~~

~~(2) Services are provided to severely disabled children from birth to 21 years of age.~~

~~(3) No fees are charged to the parents of the severely disabled children receiving the services.~~

~~(f) The Superintendent shall include child care and development providers in all personnel development for persons providing services for children with exceptional needs.~~

~~SEC. 2. Section 8263 of the Education Code is amended to read:~~

~~8263. (a) The Superintendent shall adopt rules and regulations on eligibility, enrollment, and priority of services needed to implement this chapter. In order to be eligible for federal and state subsidized child development services, families shall meet at least one requirement in each of the following areas:~~

~~(1) A family is (A) a current aid recipient, (B) income eligible, (C) homeless, (D) one whose children are recipients of protective services, whose children have been identified as being abused, neglected, or exploited, or at risk of being abused, neglected, or exploited, or (E) seeking to enroll a child with exceptional needs who receives his or her education and related services pursuant to an individualized education program in a state preschool program.~~

~~(2) A family needs the child care services (A) because the child is identified by a legal, medical, social services agency, or emergency shelter as (i) a recipient of protective services or (ii) being neglected, abused, or exploited, or at risk of neglect, abuse, or exploitation, or (B) because the parents are (i) engaged in vocational training leading directly to a recognized trade, paraprofession, or profession, (ii) employed or seeking~~

1 employment, (iii) seeking permanent housing for family stability,
2 or (iv) incapacitated.

3 (b) Except as provided in Article 15.5 (commencing with Section
4 8350), priority for state and federally subsidized child development
5 services is as follows:

6 (1) (A) First priority shall be given to neglected or abused
7 children who are recipients of child protective services, or children
8 who are at risk of being neglected or abused, upon written referral
9 from a legal, medical, or social services agency. If an agency is
10 unable to enroll a child in the first priority category, the agency
11 shall refer the family to local resource and referral services to
12 locate services for the child.

13 (B) A family who is receiving child care on the basis of being
14 a child at risk of abuse, neglect, or exploitation, as defined in
15 subdivision (k) of Section 8208, is eligible to receive services
16 pursuant to subparagraph (A) for up to three months, unless the
17 family becomes eligible pursuant to subparagraph (C).

18 (C) A family may receive child care services for up to 12 months
19 on the basis of a certification by the county child welfare agency
20 that child care services continue to be necessary or, if the child is
21 receiving child protective services during that period of time, and
22 the family requires child care and remains otherwise eligible. This
23 time limit does not apply if the family's child care referral is
24 recertified by the county child welfare agency.

25 (2) Second priority shall be given equally to eligible families,
26 regardless of the number of parents in the home, who are income
27 eligible. Within this priority, families with the lowest gross monthly
28 income in relation to family size, as determined by a schedule
29 adopted by the Superintendent, shall be admitted first. If two or
30 more families are in the same priority in relation to income, the
31 family that has a child with exceptional needs shall be admitted
32 first. If there is no family of the same priority with a child with
33 exceptional needs, the same priority family that has been on the
34 waiting list for the longest time shall be admitted first. For purposes
35 of determining order of admission, the grants of public assistance
36 recipients shall be counted as income.

37 (3) The Superintendent shall set criteria for and may grant
38 specific waivers of the priorities established in this subdivision for
39 agencies that wish to serve specific populations, including children
40 with exceptional needs or children of prisoners. These new waivers

1 shall not include proposals to avoid appropriate fee schedules or
2 admit ineligible families, but may include proposals to accept
3 members of special populations in other than strict income order,
4 as long as appropriate fees are paid.

5 (e) Notwithstanding any other provision of law, in order to
6 promote continuity of services, a family enrolled in a state or
7 federally funded child care and development program whose
8 services would otherwise be terminated because the family no
9 longer meets the program income, eligibility, or need criteria may
10 continue to receive child development services in another state or
11 federally funded child care and development program if the
12 contractor is able to transfer the family's enrollment to another
13 program for which the family is eligible prior to the date of
14 termination of services or to exchange the family's existing
15 enrollment with the enrollment of a family in another program,
16 provided that both families satisfy the eligibility requirements for
17 the program in which they are being enrolled. The transfer of
18 enrollment may be to another program within the same
19 administrative agency or to another agency that administers state
20 or federally funded child care and development programs.

21 (d) In order to promote continuity of services, the Superintendent
22 may extend the 60-working-day period specified in subdivision
23 (a) of Section 18101 of Title 5 of the California Code of
24 Regulations for an additional 60 working days if he or she
25 determines that opportunities for employment have diminished to
26 the degree that one or both parents cannot reasonably be expected
27 to find employment within 60 working days and granting the
28 extension is in the public interest. The scope of extensions granted
29 pursuant to this subdivision shall be limited to the necessary
30 geographic areas and affected persons, which shall be described
31 in the Superintendent's order granting the extension. It is the intent
32 of the Legislature that extensions granted pursuant to this
33 subdivision improve services in areas with high unemployment
34 rates and areas with disproportionately high numbers of seasonal
35 agricultural jobs.

36 (e) A physical examination and evaluation, including
37 age-appropriate immunization, shall be required prior to, or within
38 six weeks of, enrollment. A standard, rule, or regulation shall not
39 require medical examination or immunization for admission to a
40 child care and development program of a child whose parent or

1 guardian files a letter with the governing board of the child care
2 and development program stating that the medical examination or
3 immunization is contrary to his or her religious beliefs, or provide
4 for the exclusion of a child from the program because of a parent
5 or guardian having filed the letter. However, if there is good cause
6 to believe that a child is suffering from a recognized contagious
7 or infectious disease, the child shall be temporarily excluded from
8 the program until the governing board of the child care and
9 development program is satisfied that the child is not suffering
10 from that contagious or infectious disease.

11 (f) Regulations formulated and promulgated pursuant to this
12 section shall include the recommendations of the State Department
13 of Health Care Services relative to health care screening and the
14 provision of health care services. The Superintendent shall seek
15 the advice and assistance of these health authorities in situations
16 where service under this chapter includes or requires care of
17 children who are ill or children with exceptional needs.

18 (g) (1) The Superintendent shall establish a fee schedule for
19 families utilizing child care and development services pursuant to
20 this chapter, including families receiving services under paragraph
21 (1) of subdivision (b). Families receiving services under
22 subparagraph (B) of paragraph (1) of subdivision (b) may be
23 exempt from these fees for up to three months. Families receiving
24 services under subparagraph (C) of paragraph (1) of subdivision
25 (b) may be exempt from these fees for up to 12 months. The
26 cumulative period of time of exemption from these fees for families
27 receiving services under paragraph (1) of subdivision (b) shall not
28 exceed 12 months.

29 (2) The income of a recipient of federal supplemental security
30 income benefits pursuant to Title XVI of the federal Social Security
31 Act (42 U.S.C. Sec. 1381 et seq.) and state supplemental program
32 benefits pursuant to Title XVI of the federal Social Security Act
33 and Chapter 3 (commencing with Section 12000) of Part 3 of
34 Division 9 of the Welfare and Institutions Code shall not be
35 included as income for the purposes of determining the amount of
36 the family fee.

37 (h) The family fee schedule shall include, but not be limited to,
38 the following restrictions:

39 (1) Fees shall not be assessed for families whose children are
40 enrolled in the state preschool program.

~~(2) A contractor or provider may require parents to provide
diapers. A contractor or provider offering field trips either may
include the cost of the field trips within the service rate charged
to the parent or may charge parents an additional fee. Federal or
state money shall not be used to reimburse parents for the costs of
field trips if those costs are charged as an additional fee. A
contractor or provider that charges parents an additional fee for
field trips shall inform parents, prior to enrolling the child, that a
fee may be charged and that no reimbursement will be available.
A contractor or provider may charge parents for field trips or
require parents to provide diapers only under the following
circumstances:~~

~~(A) The provider has a written policy that is adopted by the
agency's governing board that includes parents in the
decisionmaking process regarding both of the following:~~

~~(i) Whether or not, and how much, to charge for field trip
expenses.~~

~~(ii) Whether or not to require parents to provide diapers.~~

~~(B) The maximum total of charges per child in a contract year
does not exceed twenty-five dollars (\$25).~~

~~(C) A child shall not be denied participation in a field trip due
to the parent's inability or refusal to pay the charge. Adverse action
shall not be taken against a parent for that inability or refusal.~~

~~Each contractor or provider shall establish a payment system
that prevents the identification of children based on whether or
not their parents have paid a field trip charge.~~

~~Expenses incurred and income received for field trips pursuant
to this section shall be reported to the department. The income
received for field trips shall be reported specifically as restricted
income.~~

~~(i) The Superintendent shall establish guidelines for the
collection of employer-sponsored child care benefit payments from
a parent whose child receives subsidized child care and
development services. These guidelines shall provide for the
collection of the full amount of the benefit payment, but not to
exceed the actual cost of child care and development services
provided, notwithstanding the applicable fee based on the fee
schedule.~~

~~(j) The Superintendent shall establish guidelines according to
which the director or a duly authorized representative of the child~~

1 ~~care and development program will certify children as eligible for~~
2 ~~state reimbursement pursuant to this section.~~
3 ~~(k) Public funds shall not be paid directly or indirectly to an~~
4 ~~agency that does not pay at least the minimum wage to each of its~~
5 ~~employees.~~

O